

GRANT IN LIEU OF PROPERTY TAXES ACT

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gene Davis

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the revenue and taxation title to enact the Grant in Lieu of Property Taxes Act.

Highlighted Provisions:

This bill:

- defines terms;
- provides for the determination of the regional facility value for purposes of calculating an eligible municipality's in lieu grant;
- provides for an application process to the state auditor;
- requires the state auditor to certify the amount of a grant in lieu of property taxes;
- requires the Division of Finance to determine whether or not there is eligible surplus; and
- provides for the payment of grants in lieu of property taxes if there is eligible surplus.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2010.

Utah Code Sections Affected:

ENACTS:



28 **59-3a-101**, Utah Code Annotated 1953
29 **59-3a-102**, Utah Code Annotated 1953
30 **59-3a-201**, Utah Code Annotated 1953
31 **59-3a-202**, Utah Code Annotated 1953
32 **59-3a-203**, Utah Code Annotated 1953
33 **59-3a-204**, Utah Code Annotated 1953
34 **59-3a-301**, Utah Code Annotated 1953
35 **59-3a-302**, Utah Code Annotated 1953
36 **59-3a-303**, Utah Code Annotated 1953

38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **59-3a-101** is enacted to read:

40 **CHAPTER 3a. GRANT IN LIEU OF PROPERTY TAXES ACT**

41 **Part 1. General Provisions**

42 **59-3a-101. Title.**

43 This chapter is known as the "Grant in Lieu of Property Taxes Act."

44 Section 2. Section **59-3a-102** is enacted to read:

45 **59-3a-102. Definitions.**

46 As used in this chapter:

47 (1) "Eligible municipality" means a city or town within which at least 33% of the
48 acreage of real property within the boundaries of the city or town is exempt from paying a
49 property tax under Chapter 2, Property Tax Act.

50 (2) "Eligible surplus" means the surplus calculated under Section 59-3a-301.

51 (3) "Facility" means:

52 (a) land, a structure, a building, an installation, an excavation, machinery, equipment,
53 or a device; or

54 (b) an addition to, reconstruction, replacement, or improvement of land or an existing
55 structure, building, installation, excavation, machinery, equipment, or device.

56 (4) "Grant in lieu of property taxes" means a grant determined in accordance with
57 Section 59-3a-203.

58 (5) "Real property" includes:

- 59 (a) the possession of, claim to, ownership of, or right to the possession of land;
60 (b) (i) all mines, minerals, and quarries in and under the land;
61 (ii) all timber growing or being on the land belonging to a person; and
62 (iii) all rights and privileges appertaining to Subsection (5)(b)(i) or (ii); and
63 (c) any improvement on the land.
64 (6) "Regional correctional facility" means a county jail as described in Section 17-22-4.
65 (7) "Regional facility" means:
66 (a) a regional correctional facility;
67 (b) a regional public safety facility;
68 (c) a regional public solid waste transfer facility;
69 (d) a regional public education facility;
70 (e) a regional transportation facility;
71 (f) a regional water reclamation facility; or
72 (g) a regional youth confinement or detention facility.
73 (8) "Regional facility value" means the value of a regional facility determined in
74 accordance with Section 59-3a-202.
75 (9) "Regional public education facility" means a facility that:
76 (a) is used for:
77 (i) administrative services to a school district;
78 (ii) services to a student eligible for special education services pursuant to Section
79 602(a)(20) of part B of the Individuals with Disabilities Act, 20 U.S.C. Section 1401(a);
80 (iii) support services;
81 (iv) maintenance; or
82 (v) storage; and
83 (b) is used for a purpose described in Subsection (9)(a) for the benefit of a student
84 residing outside the boundaries of the eligible municipality in which the facility is located.
85 (10) (a) "Regional public safety facility" means a facility:
86 (i) constructed or leased to house police, fire, or other public safety entity; and
87 (ii) from which services are provided outside the boundaries of the eligible
88 municipality in which the facility is located.
89 (b) "Regional public safety facility" includes an administrative office.

(c) "Regional public safety facility" does not include a regional correctional facility or other place of involuntary incarceration.

(11) "Regional public solid waste transfer facility" means a facility owned or operated by a municipality that:

(a) is used to collect, process, and ship solid waste, as defined in Section 19-6-102, before the solid waste is disposed of in a final disposal site; and

(b) receives solid waste from outside the eligible municipality in which the facility is located.

(12) "Regional transportation facility" means a facility that:

(a) is part of a regional transportation system that transports an individual or freight outside of the eligible municipality in which the facility is located;

(b) is a:

(i) public or private rail-based transportation system; or

(ii) public bus system; and

(c) is the part of the transportation system described in Subsection (12)(a) that:

(i) provides storage, maintenance, or repair;

(ii) provides administrative services; or

(iii) is a rail yard.

(13) "Regional water reclamation facility" means a facility used in the reclamation of water that, after the reclamation, is used outside the boundaries of the eligible municipality in which the facility is located.

(14) "Regional youth confinement or detention facility" means a facility established in accordance with Title 62A, Chapter 7, Part 2, Detention Facilities, for the confinement or detention of juveniles from outside the boundaries of the eligible municipality in which the facility is located.

Section 3. Section **59-3a-201** is enacted to read:

Part 2. Determination of In Lieu Grant

59-3a-201. Determining eligibility of a municipality to receive a grant.

(1) Before the May 1 immediately preceding the fiscal year in which a municipality applies for a grant in lieu of property taxes under this chapter, the municipality shall request its county assessor to provide a calculation of the percentage of the acreage of real property

located within the municipality's boundaries that is exempt from paying property tax.

(2) On or before the May 22 immediately following the request described in Subsection (1), the county assessor shall provide the municipality the information requested in Subsection (1).

(3) The municipality is eligible to apply for a grant in lieu of property taxes if:

(a) the county assessor determines that 33% or more of the acreage of the real property located within the municipality's boundaries is exempt from paying a property tax; and

(b) the municipality has a regional facility located within its boundaries.

Section 4. Section **59-3a-202** is enacted to read:

59-3a-202. Determination of the value of a regional facility for purposes of an in lieu grant.

(1) Before the May 1 immediately preceding the fiscal year in which an eligible municipality applies for a grant in lieu of property taxes under this chapter, the eligible municipality shall request its county assessor to provide the county with the information described in Subsection (2).

(2) On or before the May 22 immediately following the request described in Subsection (1), the county assessor shall provide the eligible municipality:

(a) a list of each parcel of real property:

(i) located within the eligible municipality's boundaries; and

(ii) occupied by a regional facility;

(b) the acreage of each parcel described in Subsection (2)(a);

(c) the total acreage of all parcels of real property located within the eligible municipality's boundaries that are subject to a property tax;

(d) the total assessed value of all parcels of real property located within the eligible municipality; and

(e) the eligible municipality's most recent certified tax rate.

(3) Using the information described in Subsection (2), the eligible municipality shall determine the regional facility value for each regional facility within its boundaries.

(4) Regional facility value within an eligible municipality is an amount equal to the product of:

(a) the average taxable value per acre for all taxable real property within the

152 municipality; and

153 (b) the total acreage of all real property occupied by a regional facility.

154 Section 5. Section **59-3a-203** is enacted to read:

155 **59-3a-203. Review and approval of an application for an in lieu grant by the state**
156 **auditor -- Determination of the amount of an in lieu grant.**

157 (1) By no later than July 1 of the fiscal year in which an eligible municipality seeks a
158 grant in lieu of property taxes, the eligible municipality shall file an application with the state
159 auditor.

160 (2) In the application required by Subsection (1), the eligible municipality shall:

161 (a) include the information supplied by its county assessor described in Sections
162 59-3a-201 and 59-3a-202;

163 (b) designate for which regional facilities the eligible municipality is seeking a
164 payment in lieu of property taxes;

165 (c) state the eligible municipality's total regional facility value determined in
166 accordance with Section 59-3a-202; and

167 (d) provide any other information that the state auditor requests.

168 (3) The state auditor shall examine the application and information provided by the
169 eligible municipality and approve the application after verifying the following:

170 (a) that the information provided by the county assessor described in Subsection (2)
171 demonstrates that 33% or more of the acreage of real property located within the municipality
172 is exempt from paying a property tax;

173 (b) based on the information provided by the eligible municipality's county assessor,
174 that the municipality's determination of the average taxable value per acre for all taxable real
175 property within the municipality is accurate;

176 (c) based on the information provided by the eligible municipality's county assessor,
177 that the municipality's determination of the total amount of acreage of real property within its
178 boundaries occupied by a regional facility is accurate; and

179 (d) that the municipality's determination of the regional facility value for each regional
180 facility is correct.

181 Section 6. Section **59-3a-204** is enacted to read:

182 **59-3a-204. Certification of in lieu grant by the state auditor.**

By no later than September 15 in a fiscal year in which the Division of Finance determines that there is eligible surplus and an approved application by an eligible municipality for an in lieu grant, the state auditor shall determine the maximum dollar amount of the grant in lieu of property taxes for which the eligible municipality qualified which is equal to the product of:

(1) the sum of the regional facility values of all regional facilities located within the boundaries of the eligible municipality as verified by the state auditor in accordance with Section 59-3a-203; and

(2) the most recent certified tax rate imposed by the eligible municipality.

Section 7. Section **59-3a-301** is enacted to read:

Part 3. Funding of In Lieu Grant

59-3a-301. Determination of eligible surplus.

(1) The Division of Finance shall calculate whether or not there is eligible surplus by no later than September 15 of each fiscal year.

(2) There is eligible surplus in a fiscal year if for the immediately preceding fiscal year there is an unrestricted, undesignated balance in the General Fund.

(3) If in a fiscal year there is eligible surplus, the Division of Finance shall notify the state auditor by no later than October 1:

(a) that there is eligible surplus; and

(b) of the amount of eligible surplus.

Section 8. Section **59-3a-302** is enacted to read:

59-3a-302. Payment.

(1) Subject to an appropriation by the Legislature of the eligible surplus and to the other provisions in this section, if the Division of Finance notifies the state auditor that there is eligible surplus, the Division of Finance shall pay an eligible municipality the total of the grant in lieu of property taxes that the eligible municipality was approved for under Section 59-3a-203 within 30 days of the completion of the audit of the state's comprehensive annual financial report for that fiscal year.

(2) Before the Division of Finance makes a payment required by Subsection (1), the state auditor shall for each fiscal year:

(a) calculate the total of the grants in lieu of property taxes due each eligible

214 municipality that applied for a grant in lieu of property taxes;

215 (b) calculate the total of the grants in lieu of property taxes due to all eligible
216 municipalities for that fiscal year; and

217 (c) determine if there is sufficient eligible surplus appropriated by the Legislature to
218 pay the amount described in Subsection (2)(b).

219 (3) If there is insufficient eligible surplus appropriated by the Legislature to pay the
220 amount described in Subsection (2)(b), the state auditor shall:

221 (a) reduce the amount each eligible municipality is due under Subsection (2)(a) by the
222 same percentage until the total of the grants in lieu of property taxes due all eligible
223 municipalities after the percentage reduction is equal to or less than the eligible surplus; and

224 (b) pay the amount described in Subsection (3)(a) to each eligible municipality
225 described in Subsection (2)(a) within 30 days of the completion of the audit of the state's
226 comprehensive annual financial report for that fiscal year.

227 (4) The total grants in lieu of property taxes paid to all eligible municipalities in a
228 fiscal year may not exceed \$1,000,000.

229 Section 9. Section **59-3a-303** is enacted to read:

230 **59-3a-303. Not applicable to certified rate.**

231 A grant received under this chapter may not be considered to establish a certified tax
232 rate under Chapter 2, Part 9, Levies.

233 Section 10. **Effective date.**

234 This bill takes effect on January 1, 2010.

Legislative Review Note

as of 1-20-09 11:03 AM

Office of Legislative Research and General Counsel

S.B. 47 - Grant in Lieu of Property Taxes Act**Fiscal Note**

2009 General Session

State of Utah

State Impact

Subject to appropriation and a General Fund surplus, enactment of this bill would allow municipalities to apply for a grant from surplus funds. Enactment of this bill will require an appropriation to the State Auditor of \$36,000 for half of an FTE.

	<u>2009 Approp.</u>	<u>2010 Approp.</u>	<u>2011 Approp.</u>	<u>2009 Revenue</u>	<u>2010 Revenue</u>	<u>2011 Revenue</u>
General Fund	\$0	\$0	\$36,000	\$0	\$0	\$0
Total	\$0	\$0	\$36,000	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill may increase revenue to local governments by as much as \$1,000,000. The transfer to the local governments would only happen if funds are appropriated and there is eligible surplus in the General Fund. Individuals and businesses may experience an increase or decrease in property tax of \$1,000,000 depending upon whether an eligible municipality decreases property tax for the funds received. County assessors will experience an increase in workload.